

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2000-0148-C - ORDER NO. 2000-776
SEPTEMBER 15, 2000

IN RE: Application of American Phone Services Corporation for a Certificate of Public Convenience and Necessity To Provide Intrastate Resold Interexchange Telecommunications Services Within the State of South Carolina.) ORDER GRANTING CERTIFICATE FOR LONG DISTANCE AUTHORITY
)

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of American Phone Services Corporation (“American Phone” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide intrastate resold interexchange telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. § 58-9-280 (Supp. 1999) and the Regulations of the Public Service Commission of South Carolina.

The Commission’s Executive Director instructed the Company to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of American Phone’s Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on August 24, 2000, at 10:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable William Saunders, Chairman, presided. American Phone was not represented by counsel. Adelaide D. Kline, Staff Counsel, represented the Commission Staff.

Riccardo Ferranti, President of American Phone, appeared and testified in support of the Application. According to his testimony, Mr. Ferranti is in charge of the day-to-day operations of the Company. The record reveals Mr. Ferranti received a law degree in Italy where he practiced for three years and specialized in criminal and communications law. Mr. Ferranti testified as to American Phone's technical, managerial, and financial ability to provide telecommunications services in South Carolina.

Upon receiving certification from this Commission, American Phone will provide resold interexchange telecommunications services throughout the State of South Carolina. American Phone will not construct any facilities to implement the authority sought in South Carolina. The proposed services will be furnished using the transmission facilities of other certificated carriers to the extent permitted by the Commission and where consistent with applicable tariff regulations.

Mr. Ferranti testified that American Phone, as of the date of the hearing, is currently certified to provide its services in twelve states and has applications pending in two states. American Phone is currently providing long distance, 800 numbers and calling card services in all states in which it is certified. The Company had not had authority denied in any state where it had applied for authority nor had the Company had authority revoked in any state where it had been granted authority. Furthermore, American Phone

had never been the subject of an investigation by a state or federal regulatory body nor had the Company been fined or sanctioned by any state or federal regulatory body.

American Phone will use an independent agent network to market its services in South Carolina. Mr. Ferranti testified that American Phone will promote its services through direct mailings, local newspaper, radio and television advertising. He stated the Company is aware of the Commission's guidelines regarding telemarketing, and that customers who wish to switch their long distance services to American Phone will be required to sign a Letter of Authorization.

During the hearing, Mr. Ferranti testified that American Phone will amend its tariff so that it complies with all the Commission's rules and regulations. He stated that the Company's customer service toll free telephone number is 1-800-711-1323. The Company's toll free customer service telephone number and name and address are printed on all customer invoices. Mr. Ferranti offered that repair problems are also reported to the toll free telephone number and that those problems are electronically submitted to the underlying carrier directly. He said that Global Crossings will be American Phone's underlying carrier in South Carolina. Mr. Ferranti is the financial and regulatory contact person for American Phone.

The testimony reveals further that American Phone has the requisite financial resources to provide telecommunications services in South Carolina. According to the financial information submitted with the Application, the Company had a strong cash position as of its December 31, 1999, balance sheet. Mr. Ferranti testified that the

Company suffered a \$26,000 loss last year because of start-up costs and expenses but he expects the Company to have a positive net income this year.

Mr. Ferranti testified that members of American Phone's five-person key management team have strong backgrounds in the telecommunications industry. As President, Mr. Ferranti is responsible for all business aspects of the Company. The record reveals that Giovanni Nobile, Secretary/Treasurer/Director, has a degree in Telecommunications Science. He has been associated in Italy and the United States in the field of telecommunications with such companies as WilTel and OLS as a Senior Account Manager and in the wholesale department. John Sossa, Customer Service Manager, has eleven years of telecommunications experience. He was previously with GTE in Texas and BellAtlantic. Katharina Pranor has twelve years of telecommunications experience in Europe. Paul Giuressi has twelve years of telecommunications experience with seven years in marketing and human resources management.

The Company is seeking a waiver of 26 S.C. Code Ann. Regs. 103-610 so that American Phone can maintain its records outside of South Carolina. Mr. Ferranti testified that American Phone maintains its financial records in accordance with the Uniform System of Accounts.

According to the testimony, American Phone's existence in South Carolina as a provider of telecommunications services will enhance long distance competition in South Carolina. Furthermore, the testimony reveals certification of American Phone will serve

the public interest by providing South Carolina consumers with a wider choice of services and providers.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. American Phone is organized as a corporation under the laws of the State of Georgia and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. American Phone operates as a reseller of interexchange services and wishes to provide its services in South Carolina.

3. American Phone has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to American Phone to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for American Phone for its resale of interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. American Phone shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. American Phone shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 1999).

4. If it has not already done so by the date of issuance of this Order, American Phone shall file its revised tariff and an accompanying price list within thirty

(30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. American Phone is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. American Phone shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If American Phone changes underlying carriers, it shall notify the Commission in writing.

8. American Phone shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The annual report and the gross receipt will necessitate the filing of intrastate information. Therefore, American Phone shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings. Be advised that the Commission's annual report for telecommunication companies requires the filing of intrastate revenues and intrastate expenses. The form the Company shall use to file annual financial information with the Commission can be found at the Commission's website at www.psc.state.sc.us/forms. The two page form the Company shall use to file this information is entitled "Annual Information on South Carolina Operations for Interexchange Companies and AOS".

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. American Phone shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The form the Company shall use to provide this information to the Commission can be found at the Commission's website at www.psc.state.sc.us/forms. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

10. With regard to the origination and termination of toll calls within the same LATA, American Phone shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dial parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

11. By its Application and testimony at the hearing, American Phone requested a waiver from the Commission's requirement to maintain its books within the State of South Carolina according to 26 S.C. Code Ann. Reg. 103-610. The Commission grants the Company's request to waive the record keeping regulation so that its books and

records may be kept at its principal office and headquarters in Roswell, Georgia. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

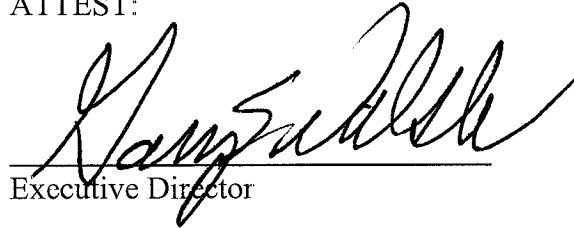
13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director

(SEAL)